

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

FREDERICK DWIGHT JONES,
157783,

Petitioner,

V.

GWENDOLYN BABERS, Warden,
et al.,

Respondents.

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CASE NO. 2:20-CV-590-WKW
[WO]

ORDER

On January 22, 2021, the Magistrate Judge filed a Recommendation to which no timely objections have been filed. (Doc. # 18.) Upon an independent review of the record and upon consideration of the Recommendation, it is ORDERED as follows:

- (1) The Recommendation (Doc. # 18) is ADOPTED.
- (2) This action is DISMISSED without prejudice because Petitioner has not exhausted his state court remedies.

A separate final judgment will be entered.

A certificate of appealability will not be issued. For a petitioner to obtain a certificate of appealability, he must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). This showing requires that

“reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (citation and internal quotation marks omitted). And, where a petition is denied on procedural grounds, he “must show not only that one or more of the claims he has raised presents a substantial constitutional issue, but also that there is a substantial issue about the correctness of the procedural ground on which the petition was denied.” *Gordon v. Sec’y, Dep’t of Corrs.*, 479 F.3d 1299, 1300 (11th Cir. 2007) (citations omitted). “A ‘substantial question’ about the procedural ruling means that the correctness of it under the law as it now stands is debatable among jurists of reason.” *Id.*

Because reasonable jurists would not find the denial of Petitioner’s § 2254 motion debatable, a certificate of appealability is DENIED.

DONE this 23rd day of February, 2021.

/s/ W. Keith Watkins

United States District Judge